

Ogletree Deakins

MEMO ENDORSED

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October 12, 2022

VIA ECF

The Honorable Sidney H. Stein
U.S. District Court
Southern District of New York
40 Foley Square
New York, NY 10007

RE: *Jeannice Tse v. Capital One Financial Corporation et al*
Case No. 1:20-cv-09347

Dear Judge Stein:

We represent Defendants Capital One Financial Corporation ("Capital One"), Simon Lindenmann, and Elizabeth Khatri (collectively "Defendants") in the above-referenced action. In accordance with Section 2.G of Your Honor's Individual Practices, Defendants write to respectfully renew their September 29, 2022 motion to compel communications between Plaintiff's expert witness and treating psychologist, Dr. Bruce Berman, and her attorney, Tiffany Ma. See Exhibit A, attached hereto. In the alternative, Defendants request the Court extend the discovery deadline until October 21 for the sole purpose of Plaintiff providing the requested documents.

The Court extended the discovery deadline to October 13 to resolve the instant dispute. Plaintiff agreed to produce communications between Dr. Berman and Ms. Ma within the scope of the Federal Rules. On October 7, counsel for Plaintiff informed defense counsel that they would attempt to produce the requested communications by the court-ordered deadline, but that they might need until October 21 to do so. Counsel for Plaintiff did not provide a reason for the delay, and, indeed, any delay seems odd, given that the correspondence sought is in Ms. Ma's possession. To date, Plaintiff has not produced any documents or communications between Ms. Ma and Dr. Berman.

We thank Your Honor for your time and consideration. Please let us know if Your Honor needs any further information.

10/13/22
Motion to compel denied
w/o prejudice in light of
att's 10/13 ltr (ECFGT).
S. H. Stein
U.S.D.C.

The Honorable Sidney H. Stein
October 12, 2022
Page 2

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

By /s/ Kelly M. Cardin
Kelly M. Cardin
Jessica R. Schild

cc: All counsel of record (via ECF)